

## **STANDARD MANAGEMENT TRACK**

### **SCHEDULING AND DISCOVERY POLICY**

This policy is governed by the Civil Justice Expense and Delay Reduction Plan (Civil Justice Plan) of this Court, effective December 31, 1991. Judge Reed has not opted out of any of the provisions of the Civil Justice Plan.

1. An initial Scheduling Order will be issued by Magistrate Judge M. Faith Angell. Judge Angell is authorized by law to rule upon all non-dispositive motions.<sup>1</sup> Examples are: motions to add parties, to join third-parties, to amend pleadings or motions and to resolve discovery disputes.

Judge Reed will rule upon all dispositive motions such as motions to dismiss, remand or transfer, and motions for summary judgment.

2. A formal scheduling conference by Judge Angell may be requested of her if necessary or Judge Angell may schedule such a conference.

3. **Self-executing disclosure** of basic discovery data and documents is required by Chapter IV of the Civil Justice Plan. Resolution of discovery disputes by Judge Angell will

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1. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. 72(a); Loc. R. Civ. P. 72.1, I(c), I(i). According to the statute and rules, the remedy available to challenge an order of a magistrate judge on a non-dispositive motion, including a discovery order, is by timely appeal to the district court and the court may reconsider the magistrate's order only if such order is found to be clearly erroneous or contrary to law. Id. and Loc. R. Civ. P. 72.1 IV.

be governed by Chapter V of the Plan. Enclosed with these papers is a copy of Chapters IV and V of the Plan.

4. In this Standard Management Track case, it is expected that discovery should be completed approximately four months after the entry of appearance by the defendants, with a **trial date** to commence in the twelfth month after the date suit was filed. Discovery will be ordered to be completed by a date certain. In more complicated Standard Management Track cases, at the scheduling conference, counsel will be directed to justify to Judge Angell the need for extended discovery. **The filing of a motion to dismiss, transfer or remand or a motion for summary judgment shall not delay discovery without formal order of the Court.**

5. VIDEOTAPE DEPOSITIONS - CAUTION: Presentation of testimony by all witnesses in person in the courtroom is preferred and expected by the Court. A stipulation of counsel that deposition testimony may be used at trial is not binding on the Court. If any party expects to contend that a witness is unavailable at the time of trial as defined in Federal Rule of Civil Procedure 32(a)(3), a motion must be filed and if Judge Reed rules that deposition testimony may be used, he expects use of oral or videotape depositions at trial of any such witness whose testimony a party believes essential to the presentation of that party's case, whether that witness is a party, a non-party or an expert.

6. The discovery deadline in Judge Angell's scheduling orders means that all reasonably foreseeable discovery must be served, noticed and completed by that date, **including expert discovery**. Discovery may take place thereafter only by agreement of the parties, so long as the trial will not be delayed and trial preparation will not unreasonably be disrupted; provided

however, that **the Court will not entertain motions to compel discovery after the discovery deadline date** except when good cause is shown for the failure to timely serve the discovery or file such motion before the deadline.

7. When timely discovery is not forthcoming after a reasonable attempt has been made to obtain it, the immediate assistance of Judge Angell should be sought. See Local Rule 26.1(f), (g). Discovery motions may be disposed of promptly by Judge Angell with or without a telephone conference in lieu of the usual motion practice even before a response is filed. Id. at 26.1(g)

8. Soon after the final discovery deadline has passed and Judge Angell has relinquished her general pretrial management of the case, Judge Reed will conduct a pretrial conference to set a trial date and set forth trial preparation and trial procedures, filing deadlines for pretrial memoranda, motions in limine, points for charge, etc. Thereupon the Court will issue a final pretrial scheduling order.

9. In Standard Management Track jury trial cases, the filing of a Pretrial Memorandum described in Local Rule 21(c) (short form) with a **joint stipulation of uncontested facts** is required. The requirements of Local Rule 21(d) (long form) will only be utilized when specially ordered by the Court. If so ordered, the proposed final pretrial order is to be joint and signed by all counsel. The detailed requirements of Local Rule 21(d)2 may be modified commensurate with the requirements of the case. The proposed order should be completed and circulated at least 72 hours before the date due. When cooperation is lacking, counsel should file a separate proposed pretrial order in the detail described in Local Rule 21(d).

10. In non-jury cases, the final pretrial scheduling order will inter alia require counsel to file a **joint stipulation of uncontested facts**, to exchange and number exhibits, name witnesses with a summary of expected testimony and file proposed findings of fact, conclusions of law, and a trial brief in advance of trial.

11. Unexcused violations of case management and scheduling orders are subject to sanctions under Fed.R.Civ.P. 16(f), upon motion or the initiative of the Court.

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LOWELL A. REED, JR., S.J.

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